

JOURNAL OF THE HOUSE.

Thursday, September 9, 2004.

Met at thirteen minutes past one o'clock P.M., in an Informal Session, with Mr. DiMasi of Boston in the Chair (having been appointed by the Speaker, under authority conferred by Rule 5, to perform the duties of the Chair).

Prayer was offered by the Reverend Robert F. Quinn, C.S.P., Chaplain of the House, as follows:

Gracious God, we pray for Your gift of wisdom as we analyze and address legislative proposals and the concerns and expectations of the people. Your gift of wisdom, which expands human wisdom, enables us to comprehend more clearly the present and future consequences of our available options on people and society. In the process of making our decisions inspire us to arrive at the most reasonable, thoughtful and ethical choices. In Your goodness help us to remain faithful to You and to our personal and legislative responsibilities as we cope with the stress of daily living and the demands of the electorate.

Prayer.

Grant Your blessings to the Speaker, the members and employees of this House and their families. Amen.

At the request of the Chair (Mr. DiMasi), the members, guests and employees joined with him in reciting the pledge of allegiance to the flag.

Pledge of
allegiance.

Appointments to Special Commissions.

The Speaker announced the appointment of the Honorable Joseph C. Sullivan and the Honorable Kevin J. Sullivan to serve on the special commission (established under section 13 of Chapter 196 of the Acts of 2004) to make an investigation and study of the transportation finance needs of the Commonwealth, the restructuring of the transportation system and the creation of a comprehensive multi-modal long-range transportation plan for the Commonwealth.

Transportation
system,
restructuring.

The Speaker also announced the appointment of Representative Rogers of Norwood, the Honorable Thomas Drechsler and the Honorable Paul R. Haley to serve on the special commission (established under section 2 of Chapter 253 of the Acts of 2004) to make recommendations to improve the manner in which the Constitutional right to counsel is delivered in the Commonwealth.

Public
counsel
services.

Resolutions.

The following resolutions (filed with the Clerk) were referred, under Rule 85, to the committee on Rules:

Resolutions (filed by Representatives Lepper of Attleboro and Poirier of North Attleborough) on the occasion of the dedication of a memorial in the city of Attleboro to Lynn Catherine Goodchild, a victim of the September 11, 2001 terrorist attack;

Lynn
Catherine
Goodchild.

Saugus,
anniversary.

Resolutions (filed by Representatives Falzone of Saugus and Reinstein of Revere) congratulating the town of Saugus on the occasion of its three hundred and seventy-fifth anniversary;

Westford,
anniversary.

Resolutions (filed by Mr. Hall of Westford) congratulating the town of Westford on the two hundred and seventy-fifth anniversary of its incorporation;

495th R/C
Squadron.

Resolutions (filed by Representatives Miceli of Wilmington and Garry of Dracut) honoring the Massachusetts 495th R/C Squadron;

Thomas
Ryan.

Resolutions (filed by Mr. Miceli of Wilmington) congratulating Chief Thomas Ryan on the occasion of his retirement from the Tewksbury Fire Department;

Frank
Branston.

Resolutions (filed by Mr. Murphy of Burlington) honoring the visit of Mayor Frank Branston of Bedford, England to the town of Bedford for the town's two hundred and seventy-fifth birthday;

Anne Claflin
Allen.

Resolutions (filed by Mrs. Paulsen of Belmont) honoring Anne Claflin Allen;

Steven P. Kfoury.

Resolutions (filed by Messrs. Torrisi of North Andover, Finegold of Andover and Lantigua of Lawrence) on the occasion of the thirty-fourth annual Dahlia Ball honoring the 2004 Lawrence Democrat of the Year, Steven P. Kfoury; and

Melinda
Marble.

Resolutions (filed by Ms. Wolf of Cambridge) honoring Melinda Marble;

Mr. Miceli of Wilmington, for the committee on Rules, reported, in each instance, that the resolutions ought to be adopted. Under suspension of the rules, in each instance, on motion of Mr. Fagan of Taunton, the resolutions (reported by the committee on Bills in the Third Reading to be correctly drawn) were considered forthwith; and they were adopted.

Petitions.

Veterans
memorial,
Waltham.

Mr. Stanley of Waltham presented a petition (accompanied by bill, House, No. 5075) of Thomas M. Stanley (with the approval of the mayor and city council) relative to the construction of a veterans memorial and community bandstand in the city of Waltham; and the same was referred to the committee on Local Affairs and Regional Government. Sent to the Senate for concurrence.

Cherry Valley
and Rochdale
Water District.

Mr. Binienda of Worcester presented a petition (subject to Joint Rule 12) of John J. Binienda, Guy W. Glodis and Paul K. Frost relative to the Cherry Valley and Rochdale Water District; and the same was referred, under Rule 24, to the committee on Rules.

Paper from the Senate.

Boston,
fire
service.

A petition of John A. Hart, Jr., for legislation relative to civil service and the fire department of the city of Boston, came from the Senate referred, under suspension of Joint Rule 12, to the committee on Public Service.

The House then concurred with the Senate in the suspension of said rule; and the petition (accompanied by bill, Senate, No. 2487) was referred, in concurrence, to the committee on Public Service.

Reports of Committees.

By Mr. Rogers of Norwood, for the committee on Ways and Means, that the Bill to provide creditable service to certain research faculty funded by research institutes and foundations under agreement with the University of Massachusetts (House, No. 2873) ought to pass. Referred, under Rule 7A, to the committee on Steering, Policy and Scheduling.

UMass,
research
faculty.

Mr. Kujawski of Webster, for said committee, reported that the matter be scheduled for consideration by the House.

Under suspension of Rule 7A, on motion of Mr. Ruane of Salem, the bill was read a second time forthwith; and it was ordered to a third reading.

By Mr. Rodrigues of Westport, for the committee on Commerce and Labor, on a petition, a Bill establishing the Athol development and industrial corporation (House, No. 5004) [Local Approval Received]. Read; and referred, under Rule 7A, to the committee on Steering, Policy and Scheduling.

Athol,
economic
development
corporation.

Mr. Kujawski of Webster, for said committee, reported that the matter be scheduled for consideration by the House.

Under suspension of the rules, on motion of Mr. Donato of Medford, the bill was read a second time forthwith; and it was ordered to a third reading.

Emergency Measure.

The engrossed Bill relative to the disposition of certain land in the city of Lowell (see Senate, No. 2421, changed and amended), having been certified by the Clerk to be rightly and truly prepared for final passage, was considered, the question being on adopting the emergency preamble.

Lowell,
disposition
of land.

A separate vote was taken, as required by the provisions of Article XLVIII (as amended by Article LXVII) of the Amendments to the Constitution; and the preamble was adopted, by a vote of 13 to 0. Sent to the Senate for concurrence.

Subsequently, the Senate having concurred in adoption of the emergency preamble, the bill (which originated in the Senate) was passed to be enacted; and it was signed by the acting Speaker and sent to the Senate.

Bill
enacted.

Engrossed Bills.

The engrossed Bill authorizing the Rockland Sewer Commission to enter into a contract for the disposal of sewage and the Abington/Rockland joint water works to enter into a contract for the supply of water (see House bill printed in House, No. 4998) (which originated in the House), having been certified by the Clerk to be rightly and truly prepared for final passage, was passed to be enacted (more than two-thirds of the members having agreed to pass the same); and it was signed by the acting Speaker and sent to the Senate.

Bill

Bill
enacted.

The engrossed Bill establishing a sick leave bank for Thomas F. Sweeney, Jr., an employee of the Department of Correction (see Senate, No. 2333, amended) (which originated in the Senate), in respect to which the Senate had concurred in adoption of the emergency preamble, was passed to be enacted; and it was signed by the acting Speaker and sent to the Senate.

Bills
enacted.

Engrossed bills

Relative to the residency requirement of the town manager of the town of Concord (see House, No. 4475);

Relative to the police powers of the University of Massachusetts at Amherst (see House, No. 4832);

Relative to the appointment of members to certain commissions in the town of Framingham (see House, No. 4851, changed); and

Relative to the charter of the city of Lawrence (see House, No. 4959); (Which severally originated in the House);

Severally having been certified by the Clerk to be rightly and truly prepared for final passage, were passed to be enacted; and they were signed by the acting Speaker and sent to the Senate.

Third
reading
bill.

Orders of the Day.

The Senate Bill relative to the definition of Korean War veteran (Senate, No. 2136), reported by the committee on Bills in the Third Reading to be correctly drawn, was read a third time; and it was passed to be engrossed, in concurrence.

Third
reading
bills.

House bills

Authorizing the town of Brookline to lease certain town-owned properties for twenty-five years (House, No. 4164) (its title having been changed by the committee on Bills in the Third Reading);

Providing for a special election in the city of Lawrence (House, No. 4886) (its title having been changed by the committee on Bills in the Third Reading); and

Establishing a sick leave bank for Noreen Whitaker, an employee of the Department of Fire Services (House, No. 5065) (its title having been changed by the committee on Bills in the Third Reading);

Severally reported by said committee to be correctly drawn, were read a third time; and they were passed to be engrossed. Severally sent to the Senate for concurrence.

Recesses.

Recesses.

At twenty minutes before two o'clock P.M., on motion of Mr. Ruane of Salem (Mr. DiMasi of Boston being in the Chair), the House recessed until the hour of three o'clock; and at seven minutes after three o'clock P.M., the House was called to order with Mr. Correia of Fall River in the Chair.

On motion of Mr. Smizik of Brookline the House thereupon took a further recess until half past four o'clock P.M.; and at sixteen minutes after five o'clock the House was called to order with Mr. Correia in the Chair.

The House thereupon, on motion of Mr. DiMasi of Boston, took a further recess until a quarter before six o'clock; and at twenty-eight minutes after six o'clock P.M., the House was called to order by Mr. Correia.

Reports of Committees.

Supplemental
appropriations.

Mr. Rogers of Norwood, for the committee on Ways and Means, on House No. 4800, reported, in part, a Bill making appropriations for the fiscal year 2004 to provide for supplementing certain existing appropriations and for certain other activities and projects (House, No. 5076) [Appropriations: \$393,616,255.00, Net Revenue: \$59,400,208.00, Net Appropriation: \$334,216,017.00, Prior Appropriations Continued: \$41,628,855.00]. Read; and referred, under Rule 7A, to the committee on Steering, Policy and Scheduling.

Mr. Kujawski of Webster, for said committee, reported that the matter be scheduled for consideration by the House.

Under suspension of the rules, on motion of Mr. Rogers of Norwood, the bill was read a second time forthwith.

Pending the question on ordering the bill to a third reading, the same member moved that it be amended by striking out section 31 and inserting in place thereof the following section:

"SECTION 31. Section 89 of chapter 71 of the general laws, as appearing in the 2002 Official Edition, is hereby amended by striking subsection (nn) and inserting in place thereof the following:—

(nn) Commonwealth charter schools shall be funded as follows: The commonwealth shall pay a tuition amount to the charter school, which shall be the sum of the tuition amounts calculated separately for each district sending students to the charter school. Tuition amounts for each sending district shall be calculated by the department of education using the formula set forth herein, to reflect, as much as practicable, the actual per pupil spending amount that would be expended in the district if the students attended the district schools. The tuition amount shall be calculated separately for each district sending students to a charter school, and for each charter school to which a district sends students. Each district's per pupil tuition amount for each charter school to which it sends students shall include a per pupil foundation budget component, adjusted to reflect the actual net school spending in the sending district.

In calculating the per pupil foundation budget component, the department shall calculate a foundation budget for the students from each sending district attending the charter school in the previous fiscal year, pursuant to the provisions of section 2 of chapter 70; provided, that the department shall not include in said calculation the assumed tuitioned-out special education enrollment, nor any amounts generated by said assumed enrollment, as defined by said section 2. The per pupil foundation budget component shall be the district's foundation budget for the charter school, as so calculated, divided by the number of students attending the charter school from the sending district in the previous fiscal year. The per pupil foundation budget component shall be calculated separately for each charter school to which a district sends students. The foundation

Supplemental
appropriations.

budget for a charter school shall be the sum of the foundation budgets for the charter school for each district sending students to the charter school.

In adjusting the per pupil foundation budget component, the department shall calculate for each sending district an above foundation spending percentage, which shall be the percentage by which the district's actual net school spending exceeds the foundation budget for the district, as calculated pursuant to the provisions of chapter 70. The department shall further calculate the percentage of actual net school spending reported by the sending district associated with tuition costs for tuitioned-out special education students, including education that occurs in educational collaboratives, and with spending on health care costs for retired employees, for any district for which such costs are included in net school spending, and shall reduce the district's above foundation spending percentage proportionately. The per pupil foundation budget component for each charter school to which the sending district sends students shall be increased by said adjusted above foundation spending percentage.

The total tuition amount owed by a sending district to a charter school shall be the per pupil tuition amount as defined above, multiplied by the total number of students attending the charter school from that district in the current fiscal year. The sending district's total charter school tuition amount for purposes of the following paragraphs shall be the sum of the district's tuition amounts for each charter school to which the district sends students, calculated using the provisions of this section. The receiving charter school's total charter school tuition amount shall be the sum of the tuition amount calculated for the charter school for each district sending students to the charter school.

The state treasurer is hereby authorized and directed to deduct a district's total charter school tuition amount, as calculated herein, from the total state school aid, as defined in section 2 of said chapter 70, of the district in which the student resides prior to the distribution of said aid. In the case of a child residing in a municipality which belongs to a regional school district, the charter school tuition amount shall be deducted from said chapter 70 education aid of the school district appropriate to the grade level of the child. If, in a single district, the total of all such deductions exceeds the total of said education aid, this excess amount shall be deducted from other aid appropriated to the city or town. If, in a single district, the total of all such deductions exceeds the total state aid appropriated, the commonwealth shall appropriate this excess amount; provided, however, that if said district has exempted itself from the provisions of chapter 70 by accepting section 14 of said chapter 70, the commonwealth shall assess said district for said excess amount.

The state treasurer is hereby further authorized and directed to disburse to the charter school an amount equal to the charter school's total charter school tuition amount as defined above.

The department shall, subject to appropriation, provide funding to charter schools for a portion of the per pupil capital needs component included in the charter tuition amount. The department shall calculate a statewide per pupil average expenditure from state and

local sources for capital costs solely associated with payments, including interest and principle payments, for the construction, renovation, purchase, acquisition, or improvement of school buildings and land, shall multiply said amount by the number of students the district sends to charter schools, and shall reimburse these sending school districts for said costs. In making these calculations, the department shall use data from the most recent year for which actual district expenditures have been reported by districts to the department.

The board of education shall adopt regulations for implementing the provisions of this subsection, including, but not limited to, regulations for determining the actual per pupil net school spending amounts in districts, and for calculating charter school tuition amounts. In adopting said regulations, the department shall consult with the executive office for administration and finance."

The amendment was adopted; and the bill, as amended, was ordered to a third reading.

Under suspension of the rules, on further motion of Mr. Rogers, the bill (having been reported by the committee on Bills in the Third Reading to be correctly drawn) was read a third time; and it was passed to be engrossed. The bill (House, No. 5076, printed as amended) then was sent to the Senate for concurrence.

By Mr. Rogers of Norwood, for the committee on Ways and Means, that the Bill authorizing the town of Hingham to issue pension obligation bonds (House, No. 3688) ought to pass [Local Approval Received]. Referred, under Rule 7A, to the committee on Steering, Policy and Scheduling.

Mr. Kujawski of Webster, for said committee, reported that the matter be scheduled for consideration by the House.

Under suspension of Rule 7A, on motion of Mr. Peterson of Grafton, the bill was read a second time forthwith; and it was ordered to a third reading.

By Mr. Rogers of Norwood, for the committee on Ways and Means, that the Bill relative to the terms of certain bonds of the city of Revere to be issued to finance the construction of a public safety facility (House, No. 4733) ought to pass [Local Approval Received]. Referred, under Rule 7A, to the committee on Steering, Policy and Scheduling.

Mr. Kujawski of Webster, for said committee, reported that the matter be scheduled for consideration by the House, with the amendment previously recommended by the committee on Long-Term Debt and Capital Expenditures,— that the bill be amended by substitution of a bill with the same title (House, No. 4964),— pending.

Under suspension of Rule 7A, on motion of Mr. Peterson of Grafton, the bill was read a second time forthwith.

The amendment previously recommended by the committee on Long-Term Debt and Capital Expenditures was adopted; and the substituted bill was ordered to a third reading.

Hingham,
pension
obligation
bonds.

Revere,
terms of
bonds.

Supplemental
appropriations.

Emergency Measure.

The engrossed Bill making appropriations for the fiscal year 2004 to provide for supplementing certain existing appropriations and for certain other activities and projects (see House, No. 5076), having been certified by the Clerk to be rightly and truly prepared for final passage, was considered, the question being on adopting the emergency preamble.

Bill
enacted.

A separate vote was taken, as required by the provisions of Article XLVIII (as amended by Article LXVII) of the Amendments to the Constitution; and the preamble was adopted, by a vote of 5 to 0. Sent to the Senate for concurrence.

Subsequently, the Senate having concurred in adoption of the emergency preamble, the bill (which originated in the House) was passed to be enacted; and it was signed by the acting Speaker and sent to the Senate.

Bill
enacted.

Engrossed Bill.

The engrossed Bill providing for a special election in the city of Lawrence (see House, No. 4886) (which originated in the House), having been certified by the Clerk to be rightly and truly prepared for final passage, was passed to be enacted; and it was signed by the acting Speaker and sent to the Senate.

Next
sitting.

Order.

On motion of Mr. Finneran of Boston,—

Ordered, That when the House adjourns today, it adjourn to meet on Monday next at eleven o'clock A.M.

At eight o'clock P.M., on motion of Mr. Peterson of Grafton (Mr. Correia of Fall River being in the Chair), the House adjourned, to meet on Monday next at eleven o'clock A.M., in an Informal Session.